

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6945 of 1995

Date of decision: 26-9-96

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RAHEDA VIKAS MANDAL

Versus

STATE OF GUJARAT

Appearance:

MR MAYANK VORA for Petitioner

None present for the respondents.

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/09/96

ORAL JUDGEMENT

Heard the learned counsel for the petitioner.

The petitioner is a public charitable trust registered under the provisions of the Bombay Public Trusts Act, 1950. The object of the petitioner Trust as enumerated in para 2 of the petition is the development agricultural, social, educational and economic - of the people of Raheda. It has been further stated that 50% of

the population of village Raheda is of Scheduled Castes and other backward class communities. There is another Trust in the village in the name and style of Rahed Jagruti Vidya Mandir. The said Trust was running secondary school at village Rahed since 1987. There were some complaints as regards nonpayment of scholarship and insufficient number of staff of the above referred Vidya Mandir to the best of the knowledge of the petitioner. In para 4 of the petition the petitioner stated that in the school run by respondent No.4 Trust there about 50 students who are prosecuting their study in Standard VIII, IX and X and out of 50 students there are about 15 girl students who were prosecuting their study in the school. The said trust has made application to the respondent authorities for transfer of the school from village Raheda to another village. The petitioner at this juncture approached this court with special civil application No.6727 of 1993 and prayer was made to restrain the said trust from transferring the school from Raheda to any other place. That special civil application was disposed of by this court with direction to represent the entire matter before the Gujarat Secondary Education Board. The Gujarat Secondary Education Board by its order dated 25-5-1995 decided to cancel the registration of the secondary school run by the said trust, and that order has been challenged by the petitioner before this Court.

2. I do not see any justification in the action of the petitioner to file the petition challenging the order of the Board cancelling the registration of the secondary school. The petitioner itself had made complaint against the said school pointing out irregularities and illegalities committed by the said Trust. In view of this fact the Board has not committed any illegality in cancelling the registration of the school. The school has not challenged the order, but the petitioner has challenged the said order for which it has no locus standi. The petitioner has contended that cancellation of registration of secondary school has resulted in non-availability of school in the village and as such this court may give direction to the respondent No.1 to either take over management of the school or to grant permission to the petitioner to start secondary school. Both these grievances of the petitioner are without any substance.

3. The petitioner has not applied for registration of secondary school in the village, and without application I fail to see how this court could issue a writ of mandamus to the respondents to grant registration

to the school. It is in fact an argument in vacuum or an attempt in futility. So far as the second prayer is concerned this court cannot issue writ of mandamus to the respondents to take over management of the school. It is for the respondents to consider whether it has to take over the management of the school or not and not for this court to decide the same. This writ petition is wholly misconceived.

4. The counsel for the petitioner lastly contended that this court may give direction to the respondents to consider the application that may be filed by the petitioner for registration of the secondary school at village Rahed. Again, such a prayer made cannot be accepted for the obvious reason that in case any such application is made it is the duty of the respondents to consider the same, for which no direction of this court is required.

5. In the result the special civil application fails and the same is dismissed. Rule discharged. No order as to costs.

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